

## **8. The Minister for Economic Development will make a statement regarding the regulation of Channel Island ferry services**

### **8.1 Senator A.J.H. Maclean (The Minister for Economic Development):**

The permit held by Condor Ferries to operate car and passenger ferry services from the Island expires on 31st December 2013. I wish to give Members an update on what is being done in preparation for this and what we intend to do in the coming months. Over the last year we have held in-depth discussions with Guernsey and Condor Ferries. Our objective was to secure new long-term arrangements that would provide modern reliable ships over the next 10 to 15 years. Ideally this should be delivered through a competitive tender or other competition mechanism. However, this does not appear possible to achieve from 1st January 2014. The reasons for not being able to offer a new long-term agreement, either to Condor Ferries or any other company, are these: firstly, new international regulations on sulphur emissions by ships come into effect in 2015. These will require expensive engine modifications to traditional Ro/Pax and Ro/Ro freight ships. In addition, the age of the world fleet of high-speed craft is crucial; many have been running for 15 years or more. They have, as yet, an unknown but clearly limited commercial life left. New ship designs include vessels driven by L.P.G. (Liquid Petroleum Gas) but the best type of replacement vessel is far from clear. This uncertainty for the future does not fit in well with the likelihood of being able to negotiate a good long-term agreement. To mitigate this we have taken external advice, jointly with Guernsey, on the condition and reliability of the high-speed fleet. I am now confident that at least in the short to medium term there is an effective strategy to better manage the services provided by Condor Ferries. We have agreed with Guernsey and the U.K. about implementing the E.U. Sea Passenger Rights Regulation when it comes into force on 18th December 2012. Passengers will gain better compensation and refund rights when vessels are delayed for technical or service reasons. I am asking the Harbourmaster to make sure the full regulation and how to complain are clearly displayed at the Elizabeth Terminal. We have agreed that Condor will give effect to the regulations, compensation and refund standards on inter-island voyages as well as voyages that start and finish in the E.U. Members, very recently, agreed that the Ports of Jersey should prepare for incorporation. This project will involve extensive law drafting and I intend to include proper competition regulatory powers for ship operators. Finally, I have agreed with Guernsey a draft update of the existing Joint Channel Islands Sea Transport Policy statement. It will allow for a new ferry permit to be issued to Condor commencing on 1st January 2014. Crucially, it restates the overriding consideration that we must have reliable, robust and reasonably priced passenger car ferry services. It makes it clear that a new permit will not be exclusive and will not extend beyond 5 years and includes a formal review to be completed within 3 years.

#### **The Bailiff:**

We have 10 minutes for questions. The Constable of St. John.

#### **8.1.1 The Connétable of St. John:**

Having attended the Condor presentation last week, along with 5 other States Members, I was surprised not to see any Ministers there, in particular the Minister from Economic Development, given it was a presentation and everyone was invited. I put certain questions to the company about the duration of their vessels, having been the Vice-Chairman of the previous Jersey Transport Authority and we had been given details some years ago that the life of those vessels were 15 years. Is the Minister happy to rely solely on his Guernsey counterparts in relation to pulling all this together, given that now that we have a shadow Harbours Board and in 5 years' time it will be they, I presume, who will be negotiating with their Guernsey counterparts, not the States of Jersey, per se? That being the case, will the Minister look at the historic records of the previous time this Island and the island of Guernsey negotiated sea routes and see the total fiasco that our Guernsey cousins created after we had given a contract to P&O Ferries and it had to be

withdrawn because Guernsey changed their mind a week after the contract had been issued? Will the Minister, please, research those records before signing any contract to extend this for a further 5 years?

**Senator A.J.H. Maclean:**

It was more of a speech than a question. Yes, first of all, I would just say that it has been well stated by the Constable in the Assembly before that he has a distrust and dislike for our cousins in Guernsey. I do not share his views. I think we have made great progress in working more collaboratively with Guernsey in many areas and, indeed, this is one good example. He says: "Am I satisfied to rely solely on Guernsey for these arrangements?" I did not, it was in fact a joint working group of Jersey and Guernsey officers and officials. Indeed the Constable also asked the question as to why there were not Ministers at the presentation by Condor. We have been talking to Condor for over a year. I have seen the presentation, I know the details and, unfortunately, I was unavailable. It was specifically for States Members and it was a constructive meeting, despite the fact that there were not perhaps as many Members able to attend as we would have liked. I am satisfied with the arrangements and they have been overseen also by the shadow Board that are more than satisfied with what is being proposed.

**The Connétable of St. John:**

Supplementary, Sir.

**The Bailiff:**

Briefly...

### **8.1.2 The Connétable of St. John:**

Yes, it will be brief, Sir. Does the Minister think he is being hoodwinked by our Guernsey colleagues, given we have had the fish wars since that issue some 15 years ago?

**Senator A.J.H. Maclean:**

I certainly do not.

### **8.1.3 Deputy G.P. Southern:**

Where has the Minister for Economic Development been for the last 3 years, this champion of competition? Why did he not foresee the need for a long-term agreement and why have we not seen a competitive tendering process in the past 3 years?

[12:15]

**Senator A.J.H. Maclean:**

Quite simply, because the agreement in place at the moment does not expire until the end of next year.

**Deputy G.P. Southern:**

Hang on, the Minister has surely noticed that it was due to expire and should have started a competitive tendering process by now.

**Senator A.J.H. Maclean:**

I think I have made it clear in my earlier comments that we have been discussing with the current incumbent the opportunities for what they would bring to the Island in terms of services for sea and ferry passenger services. That is the obvious and most sensible starting point. Looking at the marketplace as a whole, the Deputy may not be aware that there are many ferry companies that are no longer in business that were, only a few years ago, as a result of the global crisis. There are not many players in the market. It is, therefore, much more sensible to see if one can negotiate a sensible arrangement with the incumbent operator, and that is the position taken by both Jersey and Guernsey jointly.

#### **8.1.4 Deputy M.R. Higgins:**

Is the Minister making any requirements in the agreement regarding the competence, nationality, hours and pay of the crews, for example, the pay of Eastern European salaries that are a disgrace? This is an opportunity for the Minister to do something about it. Is he taking the opportunity?

**Senator A.J.H. Maclean:**

The Minister is not taking the opportunity because, as I previously stated in the Assembly, the matter falls outside of the legislation within the Island for such matters. Indeed, if the Deputy had attended the recent presentation given by Condor, they explained very eloquently the position with regard to Eastern European seafarers, of which there are only about 10 per cent, incidentally, in the total staffing that they have and the average salary they offer is above the international norm for seafarers.

#### **8.1.5 Deputy M. Tadier:**

I will not ask about reputational damage to Jersey then and what the Minister for Economic Development thinks of that. I will ask a question about what he meant when he said in his statement that the contract would not be exclusive and does that mean that we are likely to try and tender for 2 separate operators operating concurrently in Jersey?

**Senator A.J.H. Maclean:**

The existing licence permit arrangements are not exclusive and, indeed, if an operator were to come forward, another ferry company that wished to provide a service to or from the Island and it met the necessary standards, then indeed it would be considered. The process that will be followed now is that the permit will be advertised. We would expect, clearly, that Condor will apply but, equally, it is open for any other ferry operator who so wishes to apply at the same time.

#### **8.1.6 Deputy M. Tadier:**

But just for clarification, I understand that if 2 or more operators come forward and 2 of them provide compelling cases could we see a situation where we will see 2 operators running both northern and southern routes or perhaps one of each or any combination of those?

**Senator A.J.H. Maclean:**

Hypothetically it is possible but I think in practical terms it is most unlikely. If there were more than one operator coming forward it would be a case of considering the commercial merits of the proposals by both and selecting the most effective one. Competition has not been that successful, particularly on the southern route in the past. It has been the subject of many reviews, an auxiliary report and so on, and much as I favour competition, in certain markets it is not always the most effective route and, hence the need for an effective regulator.

#### **8.1.7 Deputy J.G. Reed of St. Ouen:**

The Minister says that a formal review will be completed within 3 years. I would like the Minister to tell us what will the review cover and will it take into account the needs of both our Island and Guernsey?

**Senator A.J.H. Maclean:**

The review will be in 3 years' time to look at the success of the services that are being provided, the reliability, not only of the vessels themselves but the overall service provided to the Island in terms of meeting the strategic objectives of a long-term sustainable year-round service at affordable prices.

**The Deputy of St. Ouen:**

Please, Sir, can I ask a supplementary?

**The Bailiff:**

Yes.

### **8.1.8 The Deputy of St. Ouen:**

Could the Minister explain why he is waiting 3 years to undertake the review?

**Senator A.J.H. Maclean:**

Quite simply that the permit, first of all, is going to be advertised. We are assuming there will be an application from Condor, there could be another one. If it is Condor and they are successful they will be operating under the terms that have now been agreed and we will see how they perform. We have had an independent organisation that has looked at the vessels, the reliability of the engines, the maintenance programmes and so on. There are undertakings by Condor that, I hope, will ensure that some of the difficulties that the company has had in recent years and the consumers in the islands have faced will be resolved. We want to see that being delivered.

### **8.1.9 The Connétable of St. Lawrence:**

I would just like some clarification from the Minister because in his statement he told us that a new permit will be issued to Condor commencing 1st January 2014 and I am assuming that is for 5 years. But seemingly in the joint policy statement Jersey and Guernsey have declared that neither of them will proactively seek new operators in the period prior to 31st December 2018. I think we are going to find ourselves in the same position, whereas if they are not actively seeking competition to come into this route, by 2018, when they will be looking to appoint a new ferry company, we will be in exactly the same position as we are now and we will have no choice but to appoint Condor. Will the Minister agree with me?

**Senator A.J.H. Maclean:**

No, I will not, sadly, agree with the Connétable on this occasion. First of all, I should just clarify that the process that is being followed for this particular permit requires it to be advertised. At this very start point any other ferry company that so desires could put forward a commercial proposition that would need to be considered on merit. It is not a foregone conclusion at all that Condor will provide the services over the intended 5-year period that we are facing. Secondly, it is perfectly agreeable and it is agreed with Guernsey that during the course of this 5-year term towards the end there is the opportunity and the flexibility... and I fully expect that any future agreement after the 5-year period expires will indeed be open to other operators to enter into through an appropriate commercial process.